

## **REMARKS**

Applicants appreciate the Examiner's thorough consideration provided in the present application. Claims 1-20 are currently pending in the instant application. None of the claims have been amended. Claims 1 and 15 are independent. Reconsideration of the present application is earnestly solicited.

### **Reasons for Entry of Amendment**

As discussed in greater detail hereinafter, Applicants respectfully submit that the rejections under 35 U.S.C. § 103(a) are improper and should be withdrawn. Accordingly, the finality of the Final Office Action mailed on February 26, 2003 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicants submit that this Amendment was not presented at an earlier date in view of the fact that Applicants are responding to new grounds of rejection in a Final Office Action.

### **Drawings**

The drawings have been objected to by the Examiner. Specifically, the Examiner has requested that FIGs. 1 to 5 should be designated by a legend *such as --PRIOR ART--*. This objection is respectfully traversed. Applicants have re-filed the Drawing Change Approval Request (DCAR) concurrently

herewith that addresses the Examiner's requested changes. This DCAR was improperly disapproved by the Examiner on February 26, 2003.

Without conceding the propriety of the Examiner's objection, but merely to timely advance the prosecution of the present application, FIGs. 1-5 have been amended to include the legend "Background Art." Applicants cannot amend FIGs. 1-5 to include the legend "Prior Art" as requested by the Examiner, since Applicants have not admitted that the subject matter of these drawings qualifies under 35 U.S.C. § 102.

In order to address this objection, Applicants respectfully submit that the suggestion in MPEP § 608.02(g) of the use of the phrase --Prior Art-- does not exclude the use of alternate phrases, for example, "Background Art" and "Conventional Art." These alternative phrases may be found in many U.S. Patents issued today. The intent of MPEP § 608.02(g) is to distinguish Applicants' invention from that which is not Applicants' invention. If a drawing figure illustrates only material which is known to be statutory prior art to the invention, then the use of the phrase --Prior Art-- in the drawing figure would be proper. However, if it is not clear whether such material is statutory prior art, then the use of the phrase --Prior Art-- in the drawing figures would not be proper, and a label such as "Background Art" or "Conventional Art" would be more appropriate.

Applicants submit that the proposed drawing corrections filed concurrently herewith which include the label "Background Art" meet the

criteria of MPEP § 608.02(g) and are sufficient to distinguish Applicants' invention from that which is not Applicants' invention. Accordingly, reconsideration and withdrawal of this objection, and approval of the proposed drawing corrections filed concurrently herewith, are respectfully requested.

The Examiner is reminded that Applicants have submitted available prior art in the form of an Information Disclosure Statement. Accordingly, these objections have been obviated and/or rendered moot. In addition, Applicants will submit formal drawings upon approval of the concurrently submitted DCAR.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "Conventional Art Valve" shown in Figures 1-5 (Applicants own patent application) in view of Gruett et al. (U.S. Patent No. 5,984,652). This rejection is respectfully traversed.

Applicants respectfully submit that these rejections have been obviated and/or rendered moot. The Examiner has not established that Figures 1-5 qualify as prior art under 35 U.S.C. § 102. Accordingly, this rejection is improper. Further, Applicants have submitted and will submit any additional prior art available to them with Information Disclosure Statements.

In addition, the subject matter of Figures 1-5 and the supporting description of these Figures includes Applicants' own identification and

analysis of problems associated with the structure of the background art. Therefore, it would be improper for the Examiner to rely upon Applicants' own analysis as a basis for modifying the structure of background art with the Gruett et al. patent as alleged by the Examiner. Without the benefit of Applicants' own teachings, one of ordinary skill in the art would not have even recognized the existence of any problems associated with the structure of the background art that would require or benefit from the alleged modification. Accordingly, this rejection should be withdrawn.

Since the Examiner is merely relying upon Applicants own teachings, one of ordinary skill in the art would not have modified the structure of the background art as suggested by the Examiner without the benefit of Applicants own disclosure. Further, the Gruett et al. patent fails to identify any art recognized problems with the structure of the background art that would benefit from the alleged modification. Further, the prior art of record fails to teach or suggest winding a spring coil 2.3 times as in the claimed invention of claim 19. As discussed on pages 10-11 of the specification, the particular winding of the spring in the claimed invention aids in producing an equally applied elastic force and prevents instability of the valve during operation. Therefore, even if the structure of the background art qualified as prior art, the Examiner has failed to identify an art recognized problem in the prior art of record that is overcome by the alleged modification by Gruett et al. Accordingly, this rejection is improper.

With respect to the Examiner's comments on pages 3-4 of the Office Action, the Examiner's characterization of Applicants' invention is improper. For example, pages 10-11 describes several of the advantages of the claimed invention particularly relating to the winding of the spring 2 or more times, including 2.3 times. Therefore, the advantages ignored by the Examiner on pages 10-11 of the specification specifically contradict the Examiner's statement in the record that the claimed invention lacks "an advantage, is used for a particular purpose or solves a stated problem." Accordingly, these comments by the Examiner are respectfully traversed.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

## **CONCLUSION**

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew T. Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.

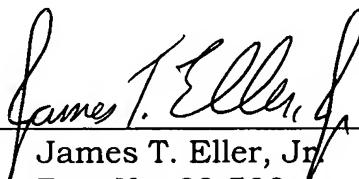
Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a one-month extension of time in which to respond to the

Examiner's Office Action. The Extension of Time Fee in the amount of **\$110.00** is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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